

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

SHAREY THOMAS, *et al.*,  
Individually and on behalf of all others  
similarly situated,

*Plaintiffs,*

v.

Civil Action No. 3:21-cv-00498-DJN

MAXIMUS, INC.,

*Defendant.*

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**DEFENDANT’S OPPOSED MOTION TO AMEND ORDER TO PROVIDE  
FOR CERTIFICATION OF AN INTERLOCUTORY APPEAL**

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Defendant Maximus, Inc. (“Maximus”) hereby moves the Court for an amendment to the Court’s February 28, 2022 Order (ECF No. 64) (the “Order”) to provide for interlocutory appeal to the United States Court of Appeals for the Fourth Circuit. Specifically, Maximus seeks to ask the Fourth Circuit to answer the following question of law:

What legal standard should courts apply when deciding whether to certify a collective action under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b)?

Maximus satisfies the criteria under 28 U.S.C. § 1292(b) for certification of an interlocutory appeal because the Order involves a controlling question of law as to which there is substantial ground for difference of opinion, and an immediate appeal may materially advance the ultimate termination of the litigation. For these reasons and those contained in the contemporaneously filed memorandum, Maximus respectfully requests that the Court amend its

Order to certify the foregoing legal issue for interlocutory appeal by stating that the Court makes the following findings:

1. That the Order involves a controlling question of law, specifically the standard a district court should use when deciding whether to certify an FLSA collective action;
2. That there is substantial ground for difference of opinion regarding that controlling question of law; and
3. That an immediate appeal from the Order may materially advance the ultimate termination of the litigation.

Respectfully submitted,

EPSTEIN, BECKER & GREEN, P.C.

/s/ Paul DeCamp

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March 14, 2022

**Local Civil Rule 7(E) Certificate**

I certify that, on March 8, 2022, I conferred in good faith with Plaintiffs' counsel regarding the relief Defendant Maximus, Inc. seeks in this motion and that Plaintiffs are opposed to that relief.

/s/ Francesco A. DeLuca  
Francesco A. DeLuca